THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

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Writ Petition No.16106 of 2008

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ORDER:

The petitioner was granted mining lease to quarry road metal over an extent of 1.619 hectares of land in R.S.No.139 of Munagapadu Village, G. Konduru Mandal, Krishna District,
for a period of ten years, by the Assistant Director of Mines and Geology, Vijayawada, Krishna District, the 5th respondent herein. When the officials of the Forest Department from the office of the 4th respondent, i.e. the District Forest Officer, Vijayawada, objected to the mining, by stating that it is being carried out in the forest land,
the petitioner filed O.S.No.677 of 2002 in the Court of I Additional Junior Civil Judge, Vijayawada. An order of temporary injunction was passed therein; and C.M.A.No.812 of 2002 filed by the
4th respondent is said to have been dismissed on 20-03-2003.

The petitioner submits that when the 4th respondent and his subordinates continue to interfere, despite the orders of temporary injunction, he filed W.P.No.8237 of 2003 before this Court, and that the same was disposed of on 10-12-2007, directing that it shall be open to the petitioner to approach the Joint Collector, Krishna,
with a prayer to arrange joint survey of the area, on which the lease was granted, and that the survey, in turn, shall be completed within a period of two months.

It is stated that in compliance with the orders passed by this Court in W.P.No.8237 of 2003, joint survey was conducted

on 16-02-2008 by the Assistant Director of Survey and Land Records, and that through his letter dated 24-04-2008, the Sub-Collector, Krishna, the 3rd respondent, informed the District Collector, Krishna, the 2nd respondent, that the land in R.S.No.139 is not a forest land, and on the other hand, it is revenue land. The grievance of the petitioner is that within two months thereafter, the 6th respondent, who was holding the office of the Sub-Collector, Vijayawada, addressed letter dated 30-06-2008 to the 2nd respondent, stating that the land in R.S.No.139 is a forest land. He contends that the report of the 6th respondent is contrary to law and opposed to record. It is pleaded that when the Forest Department itself did not claim that land in R.S.No.139 belongs to them, there was no basis for the 6th respondent in issuing the impugned proceedings.

There was some lack of uniformity and clarity on the part of the officials of the Forest Department. At one point of time, an officer by name, Mohd. Thayyab, who worked as Divisional Forest Officer, Krishna Division, in the year 2008, filed counter affidavit, stating *inter alia*, that the land does not belong to the Forest Department.

This Court, after verifying the record and hearing the arguments, in detail, passed an order on 07-12-2012, directing the Divisional Forest Officer, Mohd. Thayyab, to appear and explain his conduct. He appeared and sought leave of this Court to withdraw the counter affidavit. Other officials of the Forest Department have filed counter-affidavit, stating that the land belongs to them.

The petitioner has also filed reply affidavit. Recently, the Divisional Forest Officer, by name, P.J. Benarjee filed a counter-affidavit,

explaining the matter, with reference to the relevant records. According to him, the 6th respondent issued the impugned proceedings after thoroughly verifying the record, and that it has been the stand of the Forest Department throughout, that the land belongs to them. Reference is made to various proceedings, that have bearing upon the matter.

Heard Sri V. Jagapathi, learned counsel for the petitioner and learned Government Pleader for Forest.

Ever since the petitioner was granted mining lease, the officials of the Forest Department have been obstructing the activity by claiming that the land is part of reserve forest. The very fact that the petitioner filed O.S.No.677 of 2002 against the officials of the Forest Department, and that the latter filed C.M.A.No.812 of 2002 vouches for this. Added to that, the petitioner had also filed W.P.No.8237 of 2003, ventilating his grievance, mostly against the Forest Department.

To give a quietus to the issue, this Court directed a joint inspection and survey, with the participation of the officials of the Revenue, Survey and Land Records and Forest Departments. The survey, in fact, has taken place on 16-02-2008. Thereafter, again the officials of the Forest Department insisted that the land belongs to them. However, the Assistant Director of Survey Settlements and Land Records expressed a different view.

The direction issued by this Court in W.P.No.8237 of 2003 was, to the Joint Collector, Krishna, to cause survey. It is for the 2nd respondent to take a final view in the matter, based upon the survey report and the entries in the records. The 6th respondent did

nothing more than put the record straight, in the context of the Assistant Director of Survey and Land Records, expressing particular view. What he said is not final, and it is only when the 2nd respondent passes final orders, that the situation becomes clear. It is brought to the notice of this Court that though the lease of the petitioner expired in the year 2008, it was renewed for a further period of ten years.

Having regard to the facts and circumstances of the case, the writ petition is disposed of, directing that the District Collector, Krishna, the 2nd respondent herein, shall peruse the entire record, including the letter dated 30-06-2008, submitted by the Sub-Collector, Krishna, the 6th respondent, and pass final orders, as to the classification and nature of the land, in R.S.No.139 of Munagapadu Village, G. Konduru Mandal, Krishna District, within a period of three months from today. Till such time, the petitioner shall not undertake any mining activity over the land in question.

In view of the nature of the disposal given to the writ petition, the directions issued by this Court, through order dated 24-12-20012, against Mohd. Thayyab, the Divisional Forest Officer, Krishna, are withdrawn.

The miscellaneous petitions filed in this writ petition shall also stand disposed of. There shall be no order as to costs.

L. NARASIMHA REDDY, J

Dt.26-03-2013

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